



**STATE OF MINNESOTA**  
OFFICE OF THE ATTORNEY GENERAL

HUBERT H. HUMPHREY, III  
ATTORNEY GENERAL

ST. PAUL 55155

May 15, 1984

ADDRESS REPLY TO  
ATTORNEY GENERAL'S OFFICE  
POLLUTION CONTROL DIVISION  
1935 WEST COUNTY ROAD B-2  
ROSEVILLE, MN 55113  
TELEPHONE (612) 296-7342

US EPA RECORDS CENTER REGION 5



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The Honorable Floyd E. Boline  
United States Magistrate  
U.S. District Court  
110 S. Fourth Street  
Minneapolis, MN 55401

Re: U.S. v. Reilly Tar & Chemical Corporation  
File No. Civ. 4-80-469

Dear Magistrate Boline:

Enclosed are two copies of the Revised Notice of Motion and Motion of the State of Minnesota for Return of Privileged Documents Inadvertently Produced. I have revised the motion served on April 26, 1984, to include a fourteenth document which the State and St. Louis Park regard as privileged and which was inadvertently produced to Reilly. The Local Rule 4(c) conference requirement was satisfied as to this document by my phone conversation yesterday afternoon with Renee Pritzger, one of the attorneys for Reilly.

Very truly yours,

STEPHEN SHAKMAN  
Special Assistant  
Attorney General

SS:mah

cc: All counsel of record

Enc.

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA  
FOURTH DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

and

STATE OF MINNESOTA, by its  
Attorney General Hubert H. Humphrey, III,  
its Department of Health, and its  
Pollution Control Agency,

Civil No. 4-80-469

Plaintiff-Intervenor,

v.

REILLY TAR & CHEMICAL CORPORATION;  
HOUSING AND REDEVELOPMENT AUTHORITY  
OF ST. LOUIS PARK; OAK PARK VILLAGE  
ASSOCIATES; RUSTIC OAKS CONDOMINIUM  
INC.; and PHILIP'S INVESTMENT CO.,

Defendants.

CITY OF ST. LOUIS PARK,

Plaintiff-Intervenor,

v.

REILLY TAR & CHEMICAL CORPORATION,

Defendant.

and

CITY OF HOPKINS,

Plaintiff-Intervenor,

v.

REILLY TAR & CHEMICAL CORPORATION,

Defendant.

REVISED  
NOTICE OF MOTION AND  
MOTION OF THE STATE OF  
MINNESOTA FOR RETURN OF  
PRIVILEGED DOCUMENTS  
INADVERTENTLY PRODUCED

TO: Edward J. Schwartzbauer, Dorsey & Whitney,  
2200 First Bank Place East, Minneapolis,  
Minnesota 55402, Attorney for Defendant,  
Reilly Tar and Chemical Corporation

PLEASE TAKE NOTICE that on the 30th day of May, 1984, at 9:30 a.m. or as soon thereafter as counsel may be heard before the Honorable Floyd E. Boline in Courtroom 572 of the United States Courthouse, 110 South Fourth Street, Minneapolis, Minnesota 55401, the Plaintiff-Intervenor State of Minnesota, pursuant to Rules 26 and 37, Fed. R. Civ. P., will move this court for an order compelling Defendant Reilly Tar and Chemical Corporation, to return the following fourteen privileged documents, and all duplicates and copies of same, which were inadvertently produced by the State of Minnesota: (1) Reilly Tar and Chemical Corporation, (hereinafter RTC) Deposition Exhibit No. 14, July 14, 1971 letter from Gary R. Macomber to Robert J. Lindall, document no. 3600189; (2) RTC Deposition Exhibit Nos. 20, 113, 167, September 21, 1971 Pollution Control Agency memorandum from Robert J. Lindall to Grant J. Merritt, Edward M. Wiik, and C. A. Johannes, document no. 3600133; (3) RTC Deposition Exhibit No. 22, November 16, 1971 letter from Harvey J. McPhee to Robert J. Lindall, document no. 3600178; (4) RTC Deposition Exhibit No. 23, November 19, 1971 two page letter from Harvey J. McPhee to Robert Lindall, and two handwritten notes, undated, document nos. 1000276-279; (5) RTC Deposition Exhibit No. 27, December 17, 1971 two page letter from Robert J. Lindall to Wayne Popham, document nos. 1000256-257;

(6) RTC Deposition Exhibit Nos. 28 and 46, January 12, 1972 (estimated date) handwritten notes from DLW and accompanying comments, document nos. 3000119-121; (7) RTC Deposition Exhibit No. 37, April 23, 1970 Minnesota Pollution Control Agency memoranda by John W. Enblom, document no. 3500009; (8) RTC Deposition Exhibit No. 85, November 27, 1974 twelve page memorandum from Wayne Popham to Eldon Kaul, document nos. 3000171-182; (9) RTC Deposition Exhibit No. 191, 1978 (0-11-78 actual date on document) four page handwritten meeting notes, document nos. 7700136-140; (10) RTC Deposition Exhibit No. 267, September 24, 25, 1975 field notes by John Aho, document nos. 3000045; (11) RTC Deposition Exhibit No. 287, June 29, 1976 two page memorandum with marginalia from Charles F. Settle to Warren R. Lawson, M.D., document nos. 7300625-626; (12) RTC Deposition Exhibit No. 290, December 12, 1977 eight page handwritten notes of State Agency meeting by unknown author, document nos. 7300337-334; (13) RTC Deposition Exhibit No. 288, October 17, 1977 handwritten list by unknown author, document no. 50002036, and (14) RTC Deposition Exhibit No. 111, October 7, 1977, handwritten notes of meeting between St. Louis Park and Minnesota Pollution Control Agency attorneys and staff, document nos. 50002033-34.

A discovery conference to resolve differences was held between the State of Minnesota and Reilly Tar and Chemical Corporation pursuant to United States District Court, Local

Rule 4(c) on April 11, 1984.

This motion is based upon Rule 501, Fed. R. Evid, the enclosed affidavit of Stephen Shakman, the enclosed statement of points and authorities, and upon all the records, files and proceedings herein.


Dated: May 15, 1984

HUBERT H. HUMPHREY, III  
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By:

  
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